

ESTTA Tracking number: **ESTTA717454**

Filing date: **12/30/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Selective Insurance Group, Inc.
Granted to Date of previous extension	12/30/2015
Address	40 Wantage Avenue Branchville, NJ 07890 UNITED STATES
Attorney information	Stephen P. McNamara St. Onge Steward Johnston & Reens LLC 986 Bedford Street Stamford, CT 06905 UNITED STATES litigation@ssjr.com, smcnamara@ssjr.com

Applicant Information

Application No	86590054	Publication date	09/01/2015
Opposition Filing Date	12/30/2015	Opposition Period Ends	12/30/2015
Applicant	Gabriels Technology Solutions, Inc. 9 East 40th Street, 2nd Floor New York, NY 10016 UNITED STATES		

Goods/Services Affected by Opposition


Class 035. First Use: 2014/12/03 First Use In Commerce: 2014/12/03
All goods and services in the class are opposed, namely: Customer Relationship Management; Providing Customer Relationship Management (CRM) Services via the Internet; Providing Customer Relationship Management (CRM) Services integrated into Internet Websites

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3177139	Application Date	01/27/2006
Registration Date	11/28/2006	Foreign Priority Date	NONE
Word Mark	XSELERATE		

Design Mark	
Description of Mark	The mark consists of the stylized word XSElerate. Five horizontal lines appear before the letter X and a semi-circle appears around and to the right of the letter X.
Goods/Services	Class 042. First use: First Use: 2005/11/28 First Use In Commerce: 2005/12/14 Providing temporary use of non-downloadable software for use by insurance agents for insurance brokerage in the fields of personal automobile liability insurance

Attachments	78801147#TMSN.png(bytes) Notice of Opposition.pdf(437307 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Stephen P. McNamara/
Name	Stephen P. McNamara
Date	12/30/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Selective Insurance Group, Inc.	:	
	:	
Opposer,	:	
	:	
-v-	:	Opposition No.
	:	
Gabriels Technology Solutions, Inc.	:	
	:	
Applicant.	:	

Re: U.S. Trademark Application
Serial No.: 86590054
Trademark: XCELERATE
Applicant: Gabriels Technology Solutions, Inc.
Filed: April 7, 2015
International Class: 035
Published: September 1, 2015

NOTICE OF OPPOSITION

Selective Insurance Group, Inc. (“Opposer”), a New Jersey corporation having a place of business at 40 Wantage Avenue, Branchville, New Jersey 07890, believes it will be damaged by registration of the mark XCELERATE, Serial No. 86590054 (“Application”) filed by Gabriels Technology Solutions, Inc. (“Applicant”), a New York corporation having a place of business at 9 East 40th Street, 2nd Floor, New York, NEW YORK 10016, and hereby opposes registration thereof pursuant to Section 13 of the Trademark Act of 1946 (the “Lanham Act”) (15 U.S.C. § 1063). The grounds for opposition are as follows:

1. Opposer is the owner of the trademark XSELERATE, U.S. Trademark Reg. No. 3,177,139 for Providing temporary use of non-downloadable software for use by insurance agents for insurance brokerage in the fields of personal automobile liability insurance (“Registered Mark”).

2. Opposer uses the trademark XSELERATE through its subsidiary and/or affiliate companies in connection with an electronic platform for submitting applications for automobile insurance. A webpage specimen showing Opposer's trademark is attached as Exhibit A.

3. Opposer began using XSELERATE in interstate commerce as early as December 14, 2005, and has used XSELERATE continuously in commerce since that date.

4. Opposer filed a United States Trademark Application for XSELERATE on January 27, 2006, in accordance with Section 1 of the Lanham Act (15 U.S.C. § 1051(a)). The application, U.S. Trademark Application No. 78-801,147, was published in the *Official Gazette* on September 12, 2006. Opposer's trademark XSELERATE was registered as U.S. Trademark Reg. No. 3,177,139 on November 28, 2006.

5. Opposer's Reg. No. 3,177,139 identifies the following services: "providing temporary use of non-downloadable software for use by insurance agents for insurance brokerage in the fields of personal automobile liability insurance."

6. Copies of Opposer's Registration Certificate and associated TESS and TSDR records are attached as Exhibit B.

7. Applicant's Trademark Application, XCELERATE, Serial No. 86590054 ("Applicant's Mark") was filed on April 7, 2015, in connection with "Customer Relationship Management; Providing Customer Relationship Management (CRM) Services via the Internet; Providing Customer Relationship Management (CRM) Services integrated into Internet Websites."

8. Opposer's first uses of its trademark XSELERATE long predate Applicant's Application filing and its first use date. Opposer's rights in its trademark XSELERATE predate any date that Applicant may rely upon in this proceeding.

9. Applicant's Mark XCELERATE is similar in appearance, sound, connotation, and commercial impression to Opposer's trademark XSELERATE.

10. Opposer's trademark XSELERATE and Applicant's Mark XCELERATE are for related and/or overlapping services because they are both used in connection with electronic products and services for obtaining and managing customers and sales.

11. Applicant's Mark XCELERATE when used in connection with the services identified in Applicant's Application, is likely to be seen as being sponsored by, affiliated with, or originating from Opposer.

12. Applicant's Mark XCELERATE so resembles Opposer's trademark and Registered Mark XSELERATE as to be likely to cause confusion, to cause mistake, or to deceive as to the source of the identified goods within the meaning of Section 2 of the Lanham Act (15 U.S.C. § 1052(d)).

13. Registration of Applicant's Mark XCELERATE would allow Applicant to unfairly benefit from the goodwill Opposer has established through its Registered Mark XSELERATE.

14. Opposer will be damaged by the grant of registration of Applicant's Application for XCELERATE.

WHEREFORE, Opposer prays that said application Serial No. 86590054 for XCELERATE be denied, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

Respectfully submitted,

SELECTIVE INSURANCE GROUP, INC.

December 30, 2015

/Stephen P. McNamara/

Stephen P. McNamara

ST. ONGE STEWARD JOHNSTON & REENS LLC

986 Bedford Street

Stamford, CT 06905

Tel. (203) 324-6155

Fax. (203) 327-1096

Email: litigation@ssjr.com

Attorney for Opposer

CERTIFICATE OF SERVICE

This is to certify that on this date, a true copy of the foregoing **NOTICE OF OPPOSITION** is being served by email and by first class mail, postage prepaid, on the Applicant at the following addresses:

Ira R Hecht
Ira R Hecht PC
123 Lincoln Rd E
Plainview, New York 11803-5318

Email: ihecht@internetlawny.com

December 30, 2015

/Stephen P. McNamara/

Date

Stephen P. McNamara

EXHIBIT A



A lynchpin to grow your business

Text Size: [-](#) [+](#)

xSELERate®, Selective's agency integration technology, gives our agents the lynchpin to grow their business with us. xSELERate® links an agent's agency management system to Selective systems like our commercial lines underwriting system (CLAS®); SelectPLUS®, our personal lines underwriting system; and eSelect®, our agent intranet site, making it easier for agents to submit business and inquire about existing accounts, literally with the click of a button. xSELERate® eliminates the need for double entry of data into both the agency management system and CLAS® or SelectPLUS®. Agents can submit data to us directly from their system. Benefits for agents who use our xSELERate® technology include:

- Increased service and response time to customers.
- Reduced administrative costs, errors, omissions and paper work.
- No need to remember website addresses or where to find claims, billing and policy information on eSelect®.
- No cost to participate.



Proven, award-winning technology

xSELERate® helps our agents get more done, and the industry has recognized that:

- Commercial Lines Interface Carrier of the Year and Download Achievement Award from the Applied Systems Client Network (ASCnet)
- Prestigious Quantum Award from the AMS User Group
- E-Fusion Award from A.M. Best
- Model Carrier from Celent
- Partner Award for Dedication to Interface Partnerships from Applied Systems



xSELERate® works with the following management systems and comparative raters:

- Applied TAM and TAM Online via Transformation Station
- Applied Vision via Transformation Station
- AfW and AfW Online via TransactNOW
- Sagitta and Sagitta Online via TransactNOW
- AMS 360 via TransactNOW
- Prime (inquiry and personal lines rating only) via TransactNOW
- InStar (inquiry and personal lines rating only) via TransactNOW
- Personal Lines Rating
- EZLynx

xSELERate® resources that will help our agents grow their business:

[Rating Resources:](#)

- Commercial Auto Quoting and Bridging
- General Liability Quoting and Bridging
- Commercial Property Quoting and Bridging
- Businessowners (BOP) Quoting and Bridging
- Workers Compensation Quoting and Bridging
- Commercial Umbrella Quoting and Bridging
- Inland Marine PACs (CM 7169 & CM7170) as part of General Liability One & Done® Quote
- Personal Auto Quoting
- Homeowners Quoting

[Inquiry Resources:](#)

- Website Log-in
- Claims Inquiry
- Loss Runs
- Billing Inquiry
- Policy View
- Change Endorsements

[Acord Certified Download Resources:](#)

- Commercial Auto
- General Liability
- Commercial Property
- Workers Compensation
- Businessowners (BOP)
- Commercial Umbrella
- Personal Auto
- Homeowners
- Direct Bill Commission Statement

[Contact Information](#)

- If you are a Selective agent, you can learn more about specific xSELeRate® functions and supported vendor systems by clicking [here](#) to log into eSelect® or by calling our Agency Interface Services team at 1-800-777-9656, ext. 1010.
- If you are not a Selective agent but would like to learn more about Selective, visit our company site at www.selective.com.
- If you are not a Selective agent but are interested in becoming one, click [here](#).



EXHIBIT B

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,177,139

Registered Nov. 28, 2006

**SERVICE MARK
PRINCIPAL REGISTER**



SELECTIVE INSURANCE GROUP, INC. (NEW
JERSEY CORPORATION)
40 WANTAGE AVENUE
BRANCHVILLE, NJ 07890

FOR: PROVIDING TEMPORARY USE OF NON-
DOWNLOADABLE SOFTWARE FOR USE BY IN-
SURANCE AGENTS FOR INSURANCE BROKER-
AGE IN THE FIELDS OF PERSONAL AUTOMOBILE
LIABILITY INSURANCE , IN CLASS 42 (U.S. CLS.
100 AND 101).

THE MARK CONSISTS OF THE STYLIZED
WORD XSELERATE. FIVE HORIZONTAL LINES
APPEAR BEFORE THE LETTER X AND A SEMI-
CIRCLE APPEARS AROUND AND TO THE RIGHT
OF THE LETTER X.

SER. NO. 78-801,147, FILED 1-27-2006.

FIRST USE 11-28-2005; IN COMMERCE 12-14-2005.

PAUL CROWLEY, EXAMINING ATTORNEY



ASSIGN Status

TTAB Status



United States Patent and Trademark Office
An Agency of the Department of Commerce

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Mark:

XSELERATE



US Serial Number:

78801147

Application Filing Date:

Jan. 27, 2006

US Registration Number:

3177139

Registration Date:

Nov. 28, 2006

Register:

Principal

Mark Type:

Service Mark

Status:

A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Status Date:

Jan. 25, 2012

Publication Date:

Sep. 12, 2006

▼ Mark Information

▲ Collapse All

Mark Literal Elements:

XSELERATE

Standard Character Claim:

No

Mark Drawing Type:

3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark:

The mark consists of the stylized word XSElerate. Five horizontal lines appear before the letter X and a semi-circle appears around and to the right of the letter X.

Color(s) Claimed:

Color is not claimed as a feature of the mark.

Design Search Code(s):

26.01.03 - Incomplete circles (more than semi-circles); Circles, incomplete (more than semi-circles)
26.17.07 - Propulsion, lines depicting; Speed, lines depicting; Wind, lines depicting; Heat, lines depicting; Lines depicting speed, propulsion, heat or wind

▼ Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For:

Providing temporary use of non-downloadable software for use by insurance agents for insurance brokerage in the fields of personal automobile liability insurance

International Class(es):

042 - Primary Class

U.S Class(es):

100, 101

Class Status:

ACTIVE

Basis:	1(a)		
First Use:	Nov. 28, 2005	Use in Commerce:	Dec. 14, 2005
▼ Basis Information (Case Level)			
Filed Use:	Yes	Currently Use:	Yes
Filed ITU:	No	Currently ITU:	No
Filed 44D:	No	Currently 44D:	No
Filed 44E:	No	Currently 44E:	No
Filed 66A:	No	Currently 66A:	No
Filed No Basis:	No	Currently No Basis:	No
▼ Current Owner(s) Information			
Owner Name:	Selective Insurance Group, Inc.		
Owner Address:	40 Wantage Avenue Branchville, NEW JERSEY 07890 UNITED STATES		
Legal Entity Type:	CORPORATION	State or Country Where Organized:	NEW JERSEY
▼ Attorney/Correspondence Information			
Attorney of Record			
Attorney Name:	Stephen P. McNamara	Docket Number:	04230-T0052A
Attorney Primary Email Address:	tm-pto@ssjr.com	Attorney Email Authorized:	No
Correspondent			
Correspondent Name/Address:	Stephen P. McNamara ST. ONGE STEWARD JOHNSTON & REENS LLC 986 BEDFORD STREET STAMFORD, CONNECTICUT 06905-5619 UNITED STATES		
Phone:	203-324-6155	Fax:	203-327-1096
Correspondent e-mail:	tm-pto@ssjr.com	Correspondent e-mail Authorized:	No
Domestic Representative - Not Found			
▼ Prosecution History			
Date	Description	Proceeding Number	
Jan. 25, 2012	NOTICE OF ACCEPTANCE OF SEC. 8 & 15 - MAILED		
Jan. 25, 2012	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	67723	
Jan. 24, 2012	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	67723	
Dec. 01, 2011	TEAS SECTION 8 & 15 RECEIVED		
Nov. 28, 2006	REGISTERED-PRINCIPAL REGISTER		
Sep. 12, 2006	PUBLISHED FOR OPPOSITION		
Aug. 23, 2006	NOTICE OF PUBLICATION		
Jul. 18, 2006	LAW OFFICE PUBLICATION REVIEW COMPLETED	78289	
Jul. 14, 2006	ASSIGNED TO LIE	78289	
Jun. 29, 2006	APPROVED FOR PUB - PRINCIPAL REGISTER		
Jun. 21, 2006	ASSIGNED TO EXAMINER	81876	

Feb. 03, 2006	NOTICE OF DESIGN SEARCH CODE MAILED		
Feb. 02, 2006	NEW APPLICATION ENTERED IN TRAM		
▼ Maintenance Filings or Post Registration Information			
Affidavit of Continued Use:		Section 8 - Accepted	
Affidavit of Incontestability:		Section 15 - Accepted	
▼ TM Staff and Location Information			
TM Staff Information - None			
File Location			
Current Location:		TMO LAW OFFICE 110	Date in Location: Jan. 25, 2012
▼ Assignment Abstract Of Title Information - Click to Load			
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